

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JAMES RZEPLINSKI,

Plaintiff,

v.

DEBBIE TIDQUIST, et al.,

Defendants.

ORDER

Case No. 14-cv-41-jdp

Plaintiff has submitted a motion for an order directing prison officials to pay the remainder of his filing fee from his release account. Under the Prison Litigation Reform Act, an inmate who files a lawsuit in federal court under the *in forma pauperis* statute must pay the \$350 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments of 20% of the preceding month's income, in accordance with 28 U.S.C. § 1915(b)(2). On January 23, 2014, this court entered an order assessing plaintiff an initial partial payment of the filing fee for this case, which plaintiff has paid. Plaintiff has been making monthly installment payments since then.

The language of 28 U.S.C. § 1915(b)(1) requires prison officials use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of such initial partial payments, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from his release account. Because plaintiff cannot use his release account funds to pay the remaining balance of the \$350 filing fee, I will deny his motion.

ORDER

IT IS ORDERED that plaintiff James Rzeplinski's motion for an order directing prison officials to pay the remainder of his filing fee from his release account (Dkt. #33) is DENIED.

Entered this 29th day of December, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge